

**SENATOR SAXBY CHAMBLISS**  
**H2-A – BLUE CARD VISA REFORM BILL**  
**Short Summary**

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American farmers need a stable, legal workforce. American consumers deserve a safe and stable domestic food supply. The security of our citizens and our borders is of paramount importance. Therefore, visa reform is necessary. However, the best way to achieve these goals is NOT through an amnesty program. Senator Chambliss believes it is wrong to reward those who are here illegally with amnesty

Senator Chambliss' H-2A – Blue Card legislation offers a two-pronged solution to our current illegal agricultural workforce.

**Title I – H-2A Reforms:**

Labor Attestation

Currently, when an agricultural employer cannot find an adequate domestic workforce, he or she must go through a lengthy labor certification process, which involves a great deal of paperwork and several federal agencies.

This legislation replaces the current labor certification process with a streamlined attestation to the Department of Homeland Security. Under an attestation, the employer sends a petition to the Secretary of Homeland Security attesting that he or she has adequately recruited for a U.S. worker and was unable to find one. This streamlined process is in line with what employers use for the H-1B visa program and for the H-2B visa program. It is also recommended by Senator Craig's AgJobs legislation.

Prevailing Wage

Currently, farmers who employ H-2A workers must pay the Adverse Effect Wage Rate (AEWR) – the minimum wage rates the Department of Labor has determined must be paid to U.S. and foreign agricultural workers. The AEWR does not reflect regional wages.

This legislation changes the wage rate that farmers who employ H-2A workers must pay from AEWR to a prevailing wage. The prevailing wage is the average wage paid to similarly employed workers in the occupation for which foreign workers are sought in the area of intended employment. The prevailing wage is a more market-oriented wage that accurately reflects area wages.

Housing Requirements

This legislation maintains the requirement for employers to provide housing and transportation for H-2A workers. However, it provides an exemption for the requirement to provide housing to H-2A workers for those employers whose farm operation is near the border and who employs H-2A workers who commute across the border to work.

Verification

This legislation requires H-2A workers, when approved to enter the United States, be issued a tamper-proof, machine-readable identification card, which contains biometric

identifiers. The purpose of this secure identification document is threefold: (1) ensure that the H-2A worker is in fact the person the identification claims he/she is; (2) ensure that the H-2A worker is authorized to temporarily reside and work in the United States; and (3) ensure that the authorization to temporarily reside and work in the United States has not expired.

## **Title II – Blue Card:**

### **General**

In addition to reforming the H-2A program for those employers who already use the legal program for obtaining foreign agricultural workers, this legislation addresses the need to effectively deal with the large undocumented agricultural workforce. This legislation employs a new concept: the blue card. The basic provisions are as follows:

1. Agricultural Workers – the blue card is available to agricultural workers who have been in the U.S. prior to April 1, 2005, substantially working in agriculture. This will prohibit further illegal migration to the U.S. by those foreign nationals hoping to obtain a legal status in the U.S.
  - a. Definition of Agricultural Workers – this legislation expands the definition of ‘agricultural workers’ to include not only the usual crop and livestock production, but also packaging and processing of commodities as well as services or activities related to landscaping. This will allow us to capture more of our current illegal population in the U.S., as well as provide some relief for occupations that rely on H-2B visas, which are in high demand and short supply.
2. Employer Petitioned – only agricultural employers are allowed to individually petition for a blue card on behalf of a currently-undocumented agricultural worker. This provides a market-based approach and qualifies only as many undocumented aliens with a temporary legal status as necessary to provide a stable, legal agricultural workforce.
3. Temporary Work Certification – the blue card authorizes the worker to work in agricultural employment only for 3 years. The blue card may be renewed twice.
  - a. The blue card holder will have to comply with a yearly check-in requirement, which will ensure that the blue card worker is still employed in agricultural work and has not engaged in any behavior that will result in losing the blue card status.
  - b. For a limited number of foreign agricultural workers who work in managerial or supervisory positions and for whom the employer makes special attestations, there is no limit on the number of renewals available for the blue card.
4. Attestation – in order to obtain a blue card for a foreign worker, the petitioning employer must attest that he/she has adequately recruited in the area of intended employment and is unable to find sufficient American workers to fill the job. The attestation will have to be repeated every third year as the employer seeks to renew the blue card.
5. Secure identification – before a foreign agricultural worker can be issued a blue card, he/she will have to submit to a full background check, which will be conducted by the Department of Homeland Security. The background check will involve submitting biometric information as well as local contact information. This will bring currently undocumented workers out of the shadows of our society, let DHS know who and where they are, and ensure that they pose no threat to our national security. The blue card itself will be an all-in-one document – a work authorization document, an identification

document, and a travel document. A secure blue card serves the same function as the secure H-2A document (see above).

6. Free movement – Foreign workers who obtain a blue card are allowed to make brief visits outside the U.S.
7. Portability – Foreign workers who obtain a blue card are allowed to accept new employment as long as the new employer files a petition for the blue card worker with the Secretary of DHS.
8. Adjustment of status – A foreign worker who obtains blue card status through the petitioning by an employer may not file an application to adjust for permanent resident status or for another non-immigrant status unless the alien gives up his/her blue card status and returns to his/her home country. There is no path to citizenship with the blue card.